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CITY COUNCIL ATLANTA, GEORGIA

03-0-0311

AN ORDINANCE BY COUNCILMEMBER IVORY LEE YOUNG, JR. AS SUBSTITUTED & AMENDED BY FULL COUNCIL

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND RELATED **PROPERTY INTERESTS** NECESSARY FOR CONSTRUCTION OF THE **SEWER INFRASTRUCTURE** IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED **AUTHORIZE** HERETO: TO THE MAYOR AND PROCUREMENT OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY FEE SIMPLE AND EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS; TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, on September 21, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

WHEREAS, more than one hundred homes and apartments incurred severe damage as a result of this unprecedented storm, including inundation by stormwater mixed with raw sewage, thus creating a public health emergency; and

WHEREAS, the Council has previously authorized the Mayor to undertake and continue emergency relief efforts as set out in Resolution 02-R-1717, a copy of which is attached as Exhibit "B"; and

WHEREAS, in connection with such efforts the Mayor has directed the Department of Watershed Management to develop an appropriate sewer infrastructure Project to protect against the future exposure of residents and their homes and apartments to raw sewage mixed with stormwater; and

WHEREAS, the Mayor has directed the Department of Planning and Neighborhood Conservation to develop an appropriate project to revitalize the neighborhood outside the boundaries of the said sewer infrastructure Project and, further, to provide the Vine City community with a conceptual rendering demonstrating urban planning techniques; and

WHEREAS, the said sewer infrastructure Project is described in Exhibit "A" attached hereto (hereinafter "the Project"); and

WHEREAS, following construction of the said sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace; and

WHEREAS, the circumstances are such that it is necessary to proceed with acquisition of property for the sewer infrastructure Project described in Exhibit "A" by any method of eminent domain authorized by State law, including the declaration of takings as a method of condemnation authorized by O.C.G.A. §§ 22-3-140 and 32-3-4 for Project that involves public sewage collection, treatment or disposal; and

WHEREAS, the City may be eligible for grants administered under the Georgia Emergency Management Act and/or Federal Emergency Management Act provided that property necessary for the Project is acquired on a voluntary basis; accordingly, property for the Project is to be acquired on a voluntary basis for a period of not less than six (6) months and by eminent domain only after the Commissioner of the Department of Watershed Management determines that the project requires acquisition on a non-voluntary basis; and

WHEREAS, the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings in accordance with the methods described above to acquire title to easements and fee simple and other related property interests necessary for the construction of the Project described in Exhibit "A"; and

HEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 21, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is necessary to waive limited provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

<u>Section 1</u>. The Chief Procurement Officer is hereby authorized to obtain appraisals and to establish estimates of just compensation based on these appraisals to be offered to property owners as reasonable compensation in connection with the said infrastructure improvement Project.

<u>Section 2</u>. The Project described in **Exhibit "A"** hereto is approved and the Mayor, or her designee or the Chief Procurement Officer, is authorized to negotiate with the affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in **Exhibit "A"** in accordance with the time requirements described above to acquire property for a period of not less than six (6) months from the adoption of this ordinance on a voluntary basis only and thereafter, as described below, by eminent domain.

Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d) and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in Exhibit "A." All requirements for City of Atlanta Code Section 2-1542 are to remain in effect in their entirety. The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

Section 4. The City's Program Management Consultants and their sub consultants for real estate acquisition are authorized to settle those acquisitions of property for an amount not to exceed ten percent (10%) above the estimated just compensation. The Chief Procurement Officer is authorized to administratively settle those acquisitions that the City's consultants cannot otherwise acquire for an amount not to exceed twenty percent (20%) above the estimated just compensation of affected properties without further authorization of City Council.

<u>Section 5</u>. If negotiations with affected property owners are successful, the Mayor, or her designee or the Chief Procurement Officer, is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of easements, fee simple and other property interest in connection with the infrastructure

improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

<u>Section 6</u>. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City Counsel a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee, is thereafter authorized to use all means necessary and within her power, up to and including the institution of condemnation proceedings pursuant to the declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in Exhibit "A".

<u>Section 8</u>. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

<u>Section 9</u>. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in **Exhibit "A"**.

<u>Section 10</u>. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

<u>Section 11</u>. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: *Q51102709999*

<u>Section 12</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

Amendment incorporated by krp/OMC 5/07/03

ADOPTED as amended APPROVED by the Mayor May 5, 2003 May 13, 2003

Deputy Clerk

EXHIBIT A

Proposed Rock & Vine Streets Sewer Project

This narrative provides a description, benefits and preliminary cost estimate for the proposed combined sewer capacity relief for the North Avenue CSO Basin, including the Vine City community. The proposed relief system would provide capacity relief and allow the flow volume, typically stored on surface streets, to enter the collection system. The excess flow volume would be diverted and captured in a deep tunnel system connected to the proposed West Area CSO Tunnel system. The system could provide relief in the Vine City and area communities up to the 25-year storm.

Preliminary analysis determined that the additional storage volume provided by the relief tunnel would also serve to reduce or dampen the increased peak flow rate that would be experience downstream of the CSO facility due to the additional system capacity provided. The storage provided in the relief tunnel would attenuate the peak rate to maintain conditions typical to existing conditions downstream of the CSO facility.

The primary components of the relief system include:

- Approximately 7,000 linear feet of new deep tunnel up to 26-ft finish diameter to convey and store excess flow from the North Avenue CSO Basin to the proposed West Area CSO Tunnel and North Avenue CSO Facility.
- New diversion and inflow structure to divert captured flow to the tunnel system. The structures would be located in the vicinity of Vine and Rock Streets and largely constructed underground.
- Upsizing approximately 1,100 linear feet of the existing Mineral Springs Trunk.

Key benefits to the proposed plan include:

- Stormwater capture and treatment for improved water quality.
- Benefits the North Avenue CSO Basin as a whole.
- More cost effective than off-line storage.
- Easily incorporated into the proposed Refinement to the Authorized CSO Plan.
- Largely replaces the proposed Mineral Springs Trunk upgrade.

- Provides for greenspace through property acquisition. Greenspace can be used for a future community amenity.
- Maintains the annual number of CSOs in the West Area to four per year.

The preliminary estimated capital cost is \$57.9 million.

DEPARTMENT OF WATERSHED MANAGEMENT CLEAN WATER ATLANTA PROGRAM MANAGEMENT TEAM MEMORANDUM

To:

Jack Ravan

From:

Joe Basista

2/17/03

Date:
Subject:

Summary -- Rock and Vine Streets Sewer Project

Original Relief Project

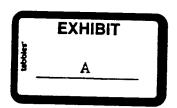
The City's long-term wastewater capital improvements plan, developed prior to the authorized CSO Plan, included a phased project to extend the existing Mineral Springs Trunk downstream to the existing North Avenue CSO facility. The project would involve significant open cut construction through the existing Vine City and other downstream neighborhoods. The phases were scheduled for year 2004 and 2007 and were estimated at \$19 million for each phase for a total estimated capital cost of \$38 million. The project would relocate the problem further downstream but did not offer a complete solution. The Mayor directed DWM to develop a long-term, complete solution to the Vine City problem.

The Vine and Rock Streets Sewer Project

DWM identified a project that could connect to the authorized downstream CSO Plan (deep tunnel storage, conveyance and treatment). The storm water flow from the upstream mineral springs trunk sewer and the peak storm water runoff from the wider Vine City drainage basin will be diverted to a deep tunnel and conveyed to the proposed West Area CSO tunnel system for treatment. The proposed project provides permanent protection against a 25-year storm event. Runoff from greater than a 25-year storm event will be stored within dedicated greenspace.

The primary components of the proposed project include:

- 1,100 linear feet extension of the Mineral Springs combined sewer trunk
- New diversion and inflow structure to route flow to the deep tunnel. The structures would be located in vicinity of Vine and Rock Streets.
- 7,000 linear feet of new deep tunnel (26-ft diameter) to store and convey excess peak storm flows (up to 25-year event) and combined sewage flows to the proposed new West Area CSO Tunnel and Treatment system.
- Approximately 12 acres of permanent, dedicated greenspace.



Schedule

- Project cannot be constructed until the CSO remedial plan is in place (Nov 2007).
- Construction would begin in year 2008.

Estimated Cost

- The engineering and construction cost is estimated at \$57 million.
- Land costs and demolition is estimated at \$10 million
- Estimated total capital cost of \$ 67 million.

Funding

- Land acquisition funding is re-allocated from within 2001 bond funds, through cost savings associated with the refined CSO remedial plan.
- The remaining project funding will require future bond fund revenues.

Greenspace

- Acquire approximately 12 acres of property necessary for the project construction site.
- Immediately demolish existing structures and plant grasses.
- DWM will maintain area until construction of the project.
- DWM will develop and maintain permanent, dedicated greenspace, based on a plan developed in conjunction with the neighborhood.

Background

- The Vine City area experienced a 100+ year rainfall on 9/21/02.
- Storm water runoff overwhelmed the capacity of the combined sewers.
- Storm water runoff and the overflow from the mineral springs trunk sewer were routed overland to the low point near Rock and Vine Street, causing severe flood event (6' depth).
- The duration of the flood was extended due to clogged catch basins. The Sewers had available capacity beginning about 9:30 pm, but City maintenance crews could not gain access to and clear the catch basins until about 11pm.
- Separate sanitary sewers would not have lessened the severity of the flood. Less than 1% of the volume was contributed by wastewater flow. The City's sewer systems are not designed to convey a 100+ year storm event.

Exhibit 1





AN ADMINISTRATIVE ORDER BY THE MAYOR

AN ADMINISTRATIVE ORDER TO DECLARES STATE OF EMERGENCY IN FLOODED AREAS OF NORTHWEST ATLANTA

WHEREAS, due to record rainfall, certain geographic areas of the City of Atlanta have experienced flooding that has made the homes and apartments in these areas temporarily uninhabitable; and,

WHEREAS, the flooding has been compounded in some instances by a possible overflow from the combined sewer system into some of the affected residential areas; and,

WHEREAS, it is the opinion of the Commissioner of Watershed Management, the Interim Commissioner of Public Works, the Chief of Police and the Fire Chief that these severe conditions and the prospect of additional rainfall and increased flooding create an immediate and critical threat to public health and safety; and,

WHEREAS, the Charter and Code of the City of Atlanta empower the Mayor to declare an emergency and to take appropriate action to abate the emergency conditions and to protect the public health and safety; AND,

WHEREAS, having considered the facts, circumstances and recommendations of the various departments and agencies involved, the Mayor has deemed an emergency to exist;

IT IS HEREBY ORDERED:

1. That the following geographic area be declared an emergency disaster area:

VINE CITY: Northside Drive on the East; Vine Street on the West; Thurmond Street on the South and Simpson Street on the North.

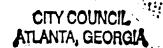
WASHINGTON PARK VICINITY: Peeples Street on the East; Parsons Place on the West; Parsons Street on the South; and Beckwith Street on the North.

2. That any contiguous area similarly be included in this declaration as the situation in the field dictates:

- 3. That the Fire Chief, Chief of Police and the appropriate commissioners of operational departments are directed and authorized, to the extent deemed necessary, to cordon off the affected geographic areas, to evacuate residents to alternative shelter, to restrict public access to the area, to board up or otherwise secure structures within the area, and to do whatever is necessary, within the limits of their lawful powers to protect the public health and safety as it relates to these emergency conditions;
- 4. That City personnel coordinate efforts with local, state and federal authorities as necessary to address these emergency conditions;
- 5. That, to the extent that the efforts of City personnel need to be supplemented by non-City forces, the various commissioners are authorized to engage such contractors and consultants as necessary to abate the emergency and to protect the public health and safety.

SO ORDERED this 22d day of September, 2002.

SHIRLEY FRANKLIN



RESOLUTION NO 02-R-1717

A RESOLUTION BY COUNCIL MEMBERS IVORY YOUNG AND CLETA WINSLOW As amended by Full Council

A RESOLUTION AUTHORIZING THE MAYOR TO CONTINUE EFFORTS TO PROVIDE RELIEF AND ASSISTANCE TO RESIDENTS OF THE CITY OF ATLANTA IMPACTED BY STORM DAMAGE; TO AUTHORIZE THE MAYOR TO APPLY FOR **FINANCIAL** ASSISTANCE FROM THE **GEORGIA** EMERGENCY MANAGEMENT AGENCY; TO AUTHORIZE THE MAYOR TO SEEK OTHER FINANCIAL AND IN-KIND ASSISTANCE FROM OTHER SOURCES: AND FOR OTHER PURPOSES.

WHEREAS, during the weekend of September 20-22, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as other areas of Atlanta; and

WHEREAS, as a result of these conditions more than one hundred homes and apartments incurred severe damage, including damages to the structures as well as furniture, appliances and personal belongings; and

WHEREAS, residents affected by this disaster have been forced out of their homes into temporary shelter with family or friends or through placements by the American Red Cross in other temporary facilities; and

WHEREAS, in addition to the damage to their homes, the deluge of water and debris rendered automobiles irreparable, which has also created a hardship in the availability of transportation to the residents in this area; and

WHEREAS, Mayor Franklin, along with personnel in the Departments of Public Works, Watershed Management, Planning, Police and Fire have been working actively with Council Members Young and Winslow since the onset of this disaster to bring humanitarian relief to the neighborhoods; and

WHEREAS, Mayor Franklin issued an emergency administrative order on Sunday, September 22, 2002, to initiate the process of emergency relief.

EXHIBIT

including coordinating with the Atlanta-Fulton Emergency Management Agency, the Red Cross and the Georgia Emergency **Agency**; and

WHEREAS, there continues to be a need for the Mayor to seek financial and other assistance for the relief effort and to continue the work of the various City departments involved in the relief effort prior to the next regularly scheduled meeting of the City Council;

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, AS FOLLOWS:

Section 1: The Mayor is authorized to continue all relief efforts undertaken pursuant to Administrative Order No. 2002-9, which is attached hereto as Exhibit 1, to include seeking, accepting and distributing such financial, in-kind or other assistance and support to affected residents as may become available for use in the relief effort.

Section 2: The Mayor is specifically authorized to solicit from the State of Georgia through the Georgia Emergency Management Agency such financial assistance as may be available for the relief effort for direct payment to the City or through reimbursement.

Section 3: The Mayor and the Chief Financial Officer are authorized to expend such funds as necessary for the relief effort to the extent that such funds are reimbursable through the Georgia Emergency Management Agency, said expenditures to be accounted for by the Chief Financial Officer for submission to the appropriate State agency for reimbursement.

Section 4: At its next regularly scheduled meeting, the Council resolves to consider, and as appropriate, adopt such ordinances and resolutions as necessary to further these relief efforts.

Section 5: That the eligibility guidelines established by the Georgia Emergency Management Agency, as well as the GEMA policy for reimbursement to the City are incorporated herein by reference as Exhibits 2 and 3.

Section 6: That any incidents of theft or fraud associated with this disaster shall be referred to the Fulton County District Attorney for appropriate action.

Section 7: That Governor Barnes' September 23, 2002 declaration of a state of emergency and mobilization of the Georgia Emergency Operations Plan be incorporated herein by reference as Exhibit 4.

A true copy,

Rhonda Daughin Johnson

Municipal Clerk, CMC

ADOPTED as amended by the Council APPROVED by the Mayor

SEP 27, 2002 SEP 27, 2002

Exhibit 2



GEORGIA EMERGENCY MANAGEMENT AGENCY

The State of Georgia Disaster Policy Volume I: Role, Authority and Organization

Date Issued: August 1, 2002

Effective Date: August 1, 2002

Number: R-6

I. BACKGROUND

The policy outlined in this document seeks to provide criteria and guidelines for disasters and emergencies approved for state financial assistance when federal assistance is not available. Assistance is strictly supplemental to the full efforts of the city and county government.

The State of Georgia is under the constant threat of a broad range of disasters, both natural and man-made. Since 1990, Georgia has experienced 16 Presidential Disaster Declarations. Under the Emergency Management Act of 1981, the Georgia Emergency Management Agency (GEMA) is charged with ensuring "that preparations of this state will be adequate to deal with such emergencies or disasters; generally to provide for the common defense and to protect the public peace, health and safety; and to preserve the lives and property of the people of this state.

Many disasters and emergency situations do not meet the criteria for a Presidential Disaster Declaration. In these instances, a county or a local community can be overwhelmed by the financial strain of responding to, and recovering from a disaster of this proportion. When federal assistance is not available to these counties, they may seek assistance from the state. This assistance may be in the form of resources and/or financial assistance.

II. POLICY

This policy only applies when local and state authorities are able to make a timely and appropriate response. Under this policy, eligible work is limited to the response to impacts on public health, public safety, critical infrastructure and/or essential operations of government. All work must be a direct result of the declared event. Additionally, all work must be also be within the declared disaster area. Eligible costs will be established by an incident period to be determined by the Director.

1. Debris Removal

Items eligible under this category are debris removal costs incurred directly as a result of the declared incident. Emergency bid procedures that are in compliance with State of Georgia purchasing guidelines are to be used by the local



Georgia Emergency Management Agency The State of Georgia Disaster Policy Volume I: R-6

Page 2

government during this time period. If contracting the debris removal operation, only a unit price contract is acceptable. This rate must be of reasonable cost. All contracts must be approved by GEMA before the contract is awarded. If using force account labor for the debris removal operation is chosen, normal overtime pay and fringe benefit rates are reimbursable. The state will not reimburse cities or counties for use of their own equipment. Necessary rental of equipment and associated costs are reimbursable. Private property debris removal is eligible only when pre-approved by GEMA. Eligible storm related debris pushed to the curbside by private homeowners is reimbursable under this program. Eligible debris removal includes the clearance of trees and woody debris, building debris and other disaster related debris on the county or city roads, state highways, shoulders, roadside ditches and drainage structures and the established, maintained right-of-way. The removal of this debris must eliminate the immediate threat to public health and safety.

The removal of fallen debris in wooded or forested areas is not eligible for reimbursement, as well as debris removal from unused lands. Stump removal is not a reimbursable expense, however, if the stumps present a safety threat reimbursement may be eligible provided the most economical means are used for its removal, such as grinding.

2. Incident Period

The incident period for financial reimbursement for debris removal is open for 30 days following state of emergency declaration, unless expressly waived or extended by the Governor of Georgia.

3. Emergency Protective Measures

Action taken to protect the community from the effects of a disaster immediately before, during and immediately following an event are eligible for reimbursement. Only rates for overtime associated with the emergency protection and debris removal operations are eligible for reimbursement for city, county and state paid employees. Fringe benefits rates associated with the overtime period are also eligible for reimbursement, provided there is an established policy justifying the rates. Such items included search and rescue efforts as well as overtime and the associated fringe rates.



Georgia Emergency Management Agency The State of Georgia Disaster Policy Volume I: R-6

Agency Policy e I: R-6 Page 3

4. Utilities

Costs that are incurred resulting from restoring critical services to the affected area are reimbursed under this program. Only the costs associated with the immediate restoration of critical services are eligible for reimbursement. Eligible costs will include payment of overtime and fringe benefits for county or city employees. City owned MEAGs and cooperatives are eligible under this program. Privately owned companies for profit are ineligible. Generally, long-term recovery costs are ineligible for reimbursement.

5. Eligibility

- Local government or government owned facilities are eligible for supplemental assistance under the established State Program and will incur a cash-match cost share of 25% of eligible costs. The State will reimburse 75% of eligible costs. There will be no administrative cost allowances provided under this program.
- Only publicly owned facilities which are in regular use are eligible. All
 insurance proceeds must be deducted from the total cost of the project.
- Operation of the facility must also be the legal responsibility of the applicant.
- Properly registered private not-for-profit organizations that provide critical services are eligible under this program. Critical services are defined as food, water, shelter, utilities and emergency medical services.
- There will be no funds provided for alternate projects under this program.
 Reimbursement is strictly for actual costs associated with restoring critical services.
- All funds will be based on a reimbursement basis.

6. Individual Assistance

Direct financial assistance to victims of an event are limited to existing state programs, unless otherwise directed by the Governor of Georgia.



Georgia Emergency Management Agency The State of Georgia Disaster Policy Volume I: R-6

Page 4

7. Temporary Facilities

This policy allows for costs associated with the establishment or procurement of temporary facilities as approved by the Director of GEMA, including but not limited to the Joint Operations Center and the Joint Information Center, used to manage operations as needed.

8. Other Work

GEMA will coordinate any other activities, including reimbursement of work and individual assistance as directed by the Governor of Georgia or the Director of GEMA.

9. Restrictions

Restrictions from reimbursement under this policy include, but are not limited to:

- Permanent sidewalk replacement
- Stump removal
- Use of government owned equipment
- Administrative costs
- Time and material contracts

III. ACTION

It is the intent and upon adoption of this policy, a procedure for carrying out its intent will be developed and implemented. This policy, we well as subsequent procedure, will be made available to local governments and other interested parties upon adoption by the Director of GEMA. It is also the policy of this Center that all employees adhere to the following guidelines and procedures and that all addendums to this policy should be adopted and listed in numerical type order.

Approved	Date



Exhibit 3



I. PURPOSE

The purpose of these regulations is to prescribe the policy, standards, and procedures to be followed in implementing and administering the disaster and emergency housing assistance program as authorized by O.C.G.A § 35-8, and the Governor of the State of Georgia.

II. POLICY

It is the policy of the Georgia Emergency Management Agency (GEMA) to assist local governments in providing disaster and emergency housing assistance for victims of situations which warrant a disaster/emergency declaration by the Governor of the State, but are not of sufficient magnitude to warrant a Presidential Declaration. Implementation of this program is dependent upon funds being made available by the State of Georgia during or immediately subsequent to an event.

III. INTENT

The intention of this program is to provide supplemental grant awards to renters and owner occupants of residences damaged by an event that warrants a disaster of emergency declaration by the Governor. The form of the grants will be rental assistance or minimal repair assistance.

IV. RESPONSIBILITIES

A. State Government

- 1. Provide management assistance to local government.
- 2. Provide disaster housing grants to local governments on behalf of victims in the form of:
 - a. Rental assistance
 - b. Minimal repair assistance for real and personal property
- 3. Program technical assistance
- 4. Determine the incident period

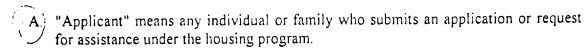


B. Local Government

- 1. Perform preliminary damage survey; provide GEMA with the necessary documentation to warrant a declaration.
- 2. Submit a proclamation of the existence of a local emergency and a resolution requesting a declaration by the Governor.
- 3. Verify applicants' addresses and determine if applicants lived in the disaster area.
- 4. Certify the damage to the residences and the need for assistance of the applicants.

V. DEFINITIONS

The following definitions have general applicability throughout the housing regulations:

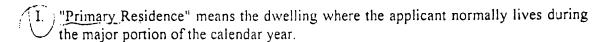


- B. "Designated Area" means any emergency or disaster affected portion of the state the Governor determines to be eligible for state assistance.
- C. "Director" means the Director, Georgia Emergency Management Agency.
- D. "Emergency" means any hurricane, tornado, storm, flood, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, wildfire, explosion, or other catastrophe in any part of the state which requires emergency assistance to supplement local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of further disaster. For the purpose of these regulations, a disaster emergency exists when the Governor has declared such or when the President of the United States has declared an emergency or major disaster to exist within the state.
- E. "Flood Hazard Area" means the area(s) designated on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency which delineates the area that has a one percent chance of flood occurrence in any given year (the 100 year flood).
- F. "Local Government" means (1) any county, city, village, town, district, or other political subdivision of the state, any Indian Tribe or authorized tribal organization,



and (2) includes any rural community or unincorporated town or village or any other public entity.

- G. "Necessary Utilities" means electricity, water, sewer or septic tank, and natural gas or liquefied petroleum (LPG).
- H. "Disaster Housing" means financial assistance provided by the state to individuals or families made homeless by an emergency or disaster for emergency/temporary accommodations or minimal repairs to damaged structures in order to make them livable.



VI. GENERAL

Assistance under this program is made available to local governments for eligible individuals and families who require disaster housing as a result of an emergency or disaster.

The commencement date of the disaster housing assistance is set forth in this policy. An eligible applicant is expected to accept the first reasonable offer of disaster housing assistance. Refusal to do so may result in forfeiture of disaster housing assistance.

VII. ELIGIBILITY CATEGORIES

A. Eligible

Assistance may be provided to applicants who have a need for disaster and emergency housing provided:

- 1. The primary residence has sustained disaster-related damage rendering it uninhabitable or unsafe, unsanitary, or insecure.
- 2. A renter is displaced due to the disaster or emergency, or because the owner needs the residence for his/her own personal housing need due to the owner's predisaster residence being made uninhabitable as a result of the disaster.
- 3. There is an eviction or dispossession because of financial hardship resulting from the disaster.



- 4. The primary residence is inaccessible as a result of the incident to the extent that the applicant cannot reasonably be expected to gain entry for a prolonged period of time and has no insurance that will cover additional living expenses (ALE). Valid reasons for inaccessibility are:
 - a. Prolonged disruption or destruction of transportation routes;
 - b. Restrictions placed on movement by a responsible official because of health and safety considerations; and
 - c. Other like impediments to access.

B. Ineligible

Assistance will not be provided when:

- 1. The damaged dwelling is not the applicant's primary residence;
- 2. The reason for displacement is not disaster or emergency related;
- 3. The residence is habitable with only cosmetic damage;
- 4. An applicant who requests assistance, has other residential property available (e.g., secondary, vacation, or unoccupied rental property) or other adequate rent-free housing accommodations that would meet his/her housing needs;
- 5. A late application was not processed because of an inadequate reason for late filing;
- 6. The applicant was evacuated as a result of official warning solely as a precautionary measure, but was able to return home immediately after the incident; or
- 7. Resident is displaced due to a house fire that is not disaster or emergency related.

C. Withdrawn

Assistance is not provided because of:

a. Inability to contact the applicant after the application was taken;



- b. Applicant's refusal to accept the form of assistance determined appropriate by GEMA; or
- c. Applicant's voluntary decision to no longer participate in the program.

VIII. APPLICATION PERIOD

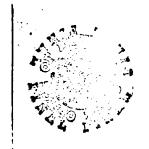
- A. The local government will take applications for housing assistance following a State of Emergency Proclamation by the Governor and a resolution from the County Board of Commissioners or City Council of the affected areas.
- B. Applications for disaster housing will be accepted up to and including fourteen (14) days following the date of the proclamation by the Governor, except when additional time for submission of applications is authorized by the Director or designee for reasons including:
 - 1. Uniformity of application periods in contiguous counties declared disaster areas as a result of the same or a similar incident;
 - 2. Extenuating circumstances including, but not limited to, hospitalization, illness, or inaccessibility which prevents an applicant from applying in a timely manner;
 - 3. Applications for disaster housing assistance shall be processed in the order in which they are filed, except that extreme hardship situations shall be recognized and such applications processed on a priority basis.

IX. VERIFICATION AND MONETARY AWARDS

- A. During the application period, GEMA may verify applicants' addresses with the county E-911. GEMA will also verify with the local emergency management directors that those applying for assistance lived in the disaster area.
- B. Within a week to ten (10) days following the State of Emergency Proclamation by the Governor, GEMA will assist local government in performing an inspection of the homes of those individuals/households applying for assistance.
 - 1. An applicant's home will be determined livable or unlivable, safe or unsafe, sanitary or unsanitary, secure or insecure based upon the damages seen during the inspection.



2. Homeowners (Owner occupants only)



- c. The award will be calculated by unit not upon the number of people living in a particular unit. If multiple individuals occupy an apartment, house or other eligible dwelling the award will be divided equally among the eligible occupants of the dwelling.
- 2. Applicants are expected to find their own rental resources; however, if none can be found, local government will assist the applicant in locating a rental unit that is available.
- 3. Any applicant reports of discrimination by a landlord or rental agency shall be submitted to GEMA.
- 4. All efforts will be made to coordinate with voluntary agencies and relief organizations to prevent duplication of benefits.

F. Minimal Repair Assistance

Homeowners/occupants may use the assistance provided in this program for home repairs. The amount of the assistance will be calculated using the same method as rental assistance. Repair assistance is not a separate program from the rental assistance program.

D. Period of Assistance

Commencement of disaster housing may be provided as of the date of occurrence of the disaster or emergency as specified in the Governor's Proclamation.

X. NONDISCRIMINATION AND NONLIABILITY

A. Nondiscrimination

All personnel carrying out disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner, without discrimination on the grounds of race, religion, sex, color, age, economic status, or national origin.

B. Nonliability

The State of Georgia shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty



on the part of a state agency or an employee of the state in carrying out the provisions of this rule.

XI. RECONSIDERATIONS AND APPEALS

A. Reconsiderations

- 1. Any applicant that is in disagreement with the initial determination of eligibility or the form of assistance provided, has the right to receive a reconsideration.
- 2. The applicant must request a reconsideration in writing within 15 days of the date on GEMA's initial determination letter. The request letter should also include new or additional information in the forms of copies of receipts or itemized estimates for additional items or repair work still needed.
- 3. The letter must be addressed to the Director and sent to the agency.
- 4. GEMA staff will review the new information and make a reconsideration decision within 7 days of the receipt of the request.

B. Appeals

- 1. Any applicant that is in disagreement with GEMA's reconsideration determination has the right to appeal.
- 2. The applicant must submit a written appeal request within 15 days of the date of the reconsideration determination letter. The applicant should also include any new or additional information that is pertinent to the request.
- 3. The appeal request must be addressed to the Director and sent to the agency.
- 4. The Director or his designee shall consider the appeal within two weeks after receipt of the appeal.
- 5. The applicant shall receive written notice of the disposition of the appeal. The decision of the Director or his designee is final.

C. Termination of Award

1. Awards may be withheld or reclaimed from an applicant if it has been determined that the applicant has misrepresented information or misused state funds.



- 2. An applicant who has been notified of his/her termination from disaster housing shall have the right to appeal. Such appeals shall be made and resolved in accordance with the following procedures:
 - a. If the applicant desires to dispute the termination, upon receipt of the written notice, he/she shall present his/her complaint in writing to GEMA in person or by mail within five business days or in such additional time as GEMA may allow for good cause. The complaint must be signed by the applicant, give the reasons why the assistance should not be terminated, and the reasons for any other action requested, such as a request for a hearing.
 - b. If a hearing has not been requested, GEMA staff shall provide a written determination to be mailed or delivered to the applicant within five (5) business days after receipt of the complaint, or in such a reasonable time as GEMA may allow.
 - c. The answer shall specify the determination made, based on consideration of the information in the complaint, and the specific reasons for the determination.
 - d. If the applicant requests a hearing, a hearing date shall be scheduled promptly for a time and place reasonably convenient to the applicant. The applicant shall be notified of the hearing in writing, and the procedures which shall govern it.

3. Hearing

- a. The hearing shall be conducted by a Hearing Panel consisting of the Finance Division Director, and two impartial persons appointed by the Director.
- b. The applicant shall be afforded a fair hearing and provided the basic safeguards of due process, including representation by counsel or another person chosen as his/her representative.
- c. The hearing shall be private unless the applicant requests a public hearing.
- d. The applicant may examine before the hearing, and at his/her expense, copies of all documents and records of the GEMA office that are relevant to the hearing. The applicant may request in advance and at his/her expense a transcript of the hearing.



- e. If the applicant fails to appear at a hearing, the Hearing Panel may postpone the hearing no longer than five business days or make the determination that the applicant has waived his/her right to a hearing.
- f. At the hearing, the applicant must make a case that the continuance of assistance is appropriate; thereafter, GEMA must sustain the burden of proof in justifying the action against which the complaint is directed. The applicant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by GEMA, and to confront in a reasonable manner and cross-examine all witnesses on whose testimony or information GEMA relies.
- g. Hearings shall be conducted informally by the Hearing Panel and any oral or documentary evidence pertinent to the facts and issues raised by the applicant may be received without regard to its admissibility under rules of evidence employed in judicial proceedings.
- h. The decision of the Hearing Panel shall be based solely upon facts presented at the hearing, upon applicable federal and state law, and GEMA regulations and requirements.
- i. The Hearing Panel shall prepare a written decision setting forth a statement of findings, conclusions, and reasons, concerning all material issues raised by the parties, within five business days after the hearing, or in such time as the Director or his designee may determine.
- j. The decision of the Hearing Panel shall be binding on GEMA which shall take all actions necessary to carry out the decision or refrain from any action prohibited by the decision.

4. Reports

The Director may require such reports, plans, and evaluations as deemed necessary to carry out his responsibility under the provisions in this rule.



Exhibit 4





THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

On September 21, 2002, strong winds accompanied by heavy rains and flooding caused major damage and destruction in the City of Atlanta, Fulton County.

State assistance is necessary to protect the public health, preserve the safety of the public, keep property damage to a minimum, and restore the social and economic welfare in this area.

Now, therefore, pursuant to the authority vested in me as Governor of the State of Georgia, it is hereby ordered that a state of emergency existed as of 7:00 p.m. on September 21, 2002, that all resources of the State of Georgia be made available to assist in the response and recovery activities currently being undertaken in the the affected area, and that the Georgia Emergency Management Agency activate the Georgia Emergency Operations Plan.

This the 23rd day of September, 2002.

EXECUTIVE COUNSEL.

ATTEST:

RCS# 4040 9/27/02 10:47 AM

Atlanta City Council

Regular Session

02-R-1717 Authorizing Efforts to get Assistance from GEMA, etc. for Storm Damage Victims ADOPT AS AMEND

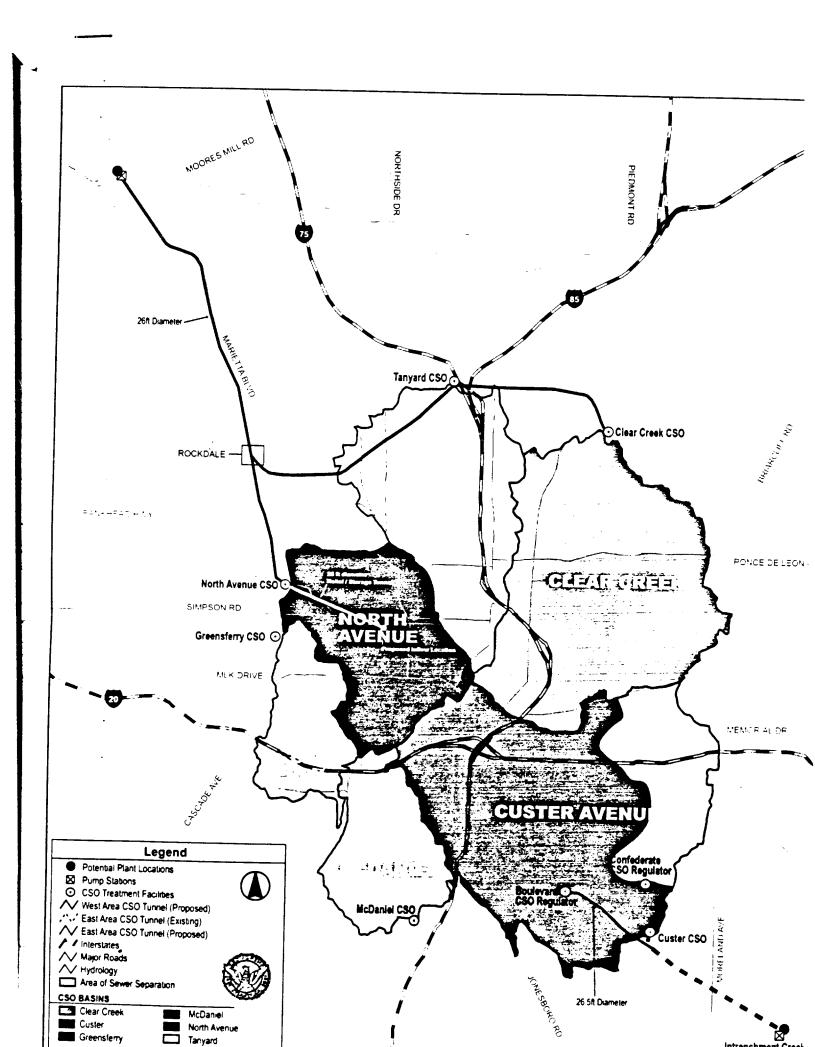
YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 4

Y Smith NV Archibong Y Moore Y Mitchell B Starnes B Fauver Y Martin Y Norwood Y Young B Shook Y Maddox Y Willis Y Winslow B Muller Y Boazman NV Woolard

Referred To:	Date Referred	Refferred To:	Date Referred	Referred To:	Date Referred	D PERSONAL PAPER REFER	D 1st ADOPT 2nd READ & REFER		CONSENT REFER	AO AMENDED COROL	AD ASSESSED OF THE SECOND	SEP 2 7 2002	ADOPTED BY	PURPOSES.	OTHER SOURCES: AND FOR OTHER	K OTHER FINA	MANAGEN	TO AUTHORIZ O APPLY FOR FIN	MAYOR TO CONTINUE EFFORTS TO PROVIDE RELIEF AND ASSISTANCE TO RESIDENTS OF THE CITY OF ATLANTA IMPACTED BY STORM	A RESOLUTION AUTHORIZING THE			(Do Not Write Above This Line)	02- ₭ -1717
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ROCK , Vine Street Flooding Area

Regular Session

O3-O-O311 Authorize easements, fee simple, etc. for Sewer Infrastructure Improv. Project ADOPT/SUB/AMEND

YEAS: 11
NAYS: 1
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y	Smith	Y	Archibong	N	Moore	NV	Mitchell
Y	Starnes	Y	Fauver	Y	Martin	Y	Norwood
	Young	Y	Shook	Y	Maddox	Y	Willis
В	Winslow	NV	Muller	Y	Boazman	NV	Woolard

Regular Session

O3-O-O311 Authorize easements, fee simple, etc. for Sewer Infrastructure Improv. Project AMEND#1/BOAZ

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith Y Archibong Y Moore NV Mitchell Y Starnes Y Fauver Y Martin Y Norwood Y Young Y Shook Y Maddox Y Willis B Winslow NV Muller Y Boazman NV Woolard

COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: DATE: 5/5, 2003
COUNCIL MEMBER: 10011 DATE: 5/5, 2003
ORDINANCE I.D. #: RESOLUTION I.D. #:
PAGE #:
PARAGRAPH:LINE:
CAPTIONS': Blue Back Legislation
AMENDMENT:
Amend "center" from "T11001" to be "Q51102709999".
Amendment incorporated by KRP10MC 5/07/03 FWW 5/7/03
by KRP10MC 5/07/03



CITY COUNCIL ATLANTA, GEORGIA

03-O-0311

AN ORDINANCE BY COUNCILMEMBER IVORY YOUNG AS SUBSTITUTED BY THE FULL COUNCIL

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND RELATED **PROPERTY INTERESTS NECESSARY** CONSTRUCTION **OF** THE **SEWER INFRASTRUCTURE** IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED **HERETO:** TO **AUTHORIZE** THE **MAYOR** AND PROCUREMENT OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER. THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY FEE SIMPLE AND EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS: TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION **PROCEEDINGS PURSUANT** TO THE DECLARATION OF TAKING AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, on September 21, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

<u>Section 6</u>. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City Counsel a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee, is thereafter authorized to use all means necessary and within her power, up to and including the institution of condemnation proceedings pursuant to the declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in Exhibit "A".

<u>Section 8</u>. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

Section 9. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in Exhibit "A".

<u>Section 10</u>. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

Section 11. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: T11001.

<u>Section 12</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

Regular Session

03-0-0311 Remove from Table

Vine City Sewer Infrastructure Project

PROCEDURE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 0

NV	Smith	Y	Archibong	Y	Moore	Y	Mitchell
Y	Starnes	Y	Fauver	Y	Martin	Y	Norwood
Y	Young	Y	Shook	Y	Maddox	Y	Willis
NV	Winslow	Y	Muller	NV	Boazman	NV	Woolard

Regular Session

MULTIPLE 03-0-0311 03-0-0394 TABLE

YEAS: 11

NAYS: 0
ABSTENTIONS: 0

NOT VOTING: 2

EXCUSED: 2

ABSENT 1

E	Smith	Y	Archibong	Y	Moore	Y	Mitchell
Y	Starnes	Y	Fauver	В	Martin	Y	Norwood
Y	Young	E	Shook	Y	Maddox	NV	Willis
Y	Winslow	Y	Muller	Y	Boazman	NV	Woolard

Regular Session

03-0-0311

Vine City Sewer Infrastructure Project $$\operatorname{\mathtt{REFER}}$$

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

NV	Smith	Y	Archibong	Y	Moore	Y	Mitchell
Y	Starnes	Υ	Fauver	Y	Martin	Y	Norwood
Y	Young	Υ	Shook	Y	Maddox	Y	Willis
Y	Winslow	Υ	Muller	NV	Boazman	NV	Woolard

RCS# 4585 3/17/03 7:24 PM

Atlanta City Council

Regular Session

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
AMEND#4/MOORE#3

YEAS: 7
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

Leconsideration (*4)

Reconsideration (*4)

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Ε	Smith	Y Arc	hibong Y	Moore	Y	Mitchell
N	Starnes	N Fau	ver B	Martin	Y	Norwood
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N	Winslow	N Mul	ler Y	Boazman	NV	Woolard

RCS# 4584 3/17/03 7:23 PM

Atlanta City Council

Regular Session

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
RECON AMEND #4

YEAS: 8
NAYS: 3
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

Metion to Peconsider

Approved

Approved

Ε	Smith	Y	Archibong	N	Moore	Y	Mitchell
Y	Starnes	Y	Fauver	В	Martin	Y	Norwood
N	Young	E	Shook	Y	Maddox	NA	Willis
Y	Winslow	Y	Muller	N	Boazman	NV	Woolard

Regular Session

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
AMEND#4/MOORE#3

YEAS: 8
NAYS: 3
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

E Smith Y Archibong Y Moore Y Mitchell N Starnes N Fauver B Martin Y Norwood Y Young E Shook Y Maddox NV Willis Y Winslow N Muller Y Boazman NV Woolard

03-R-0311 4 Amendment 3COUNCIL FLOOR AN	Ay roll call vote by roll call vote (see RCS # 4582)
More # 3COUNCIL FLOOR AN	Subsequent Motion to Subsequent Motion to Reconsider CARRIED by roll call vote (see RCS # 4584)
COUNCIL MEMBER: MOORE	DATE:
	CTION: 7 Motion to MILED !
CAPTIONS': Blue Back Legislation AMENDMENT:	[See ROS # 4585)
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@ Delete Sentence 2 / and insert in lien the "The list shall be	rof.
council for authors condemation proces	zation for clings to commence!

COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: MOORE	DATE: 3/17, 2003
ORDINANCE I.D. #: (1)5 0 03/1	_RESOLUTION I.D. #:
PAGE #:	_section: g
PARAGRAPH:	
CAPTIONS': Blue Back Legislation	
AMENDMENT:	
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improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

Section 6. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City County a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee; is thereafter authorized to use all means necessary and within her power, up to and construction of the sewer infrastructure Project described in Exhibit "A". The IST shall be presented to Council for authorization for Combonation proceedings to Comenance Section 8. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorized from City Council. including the institution of condemnation proceedings pursuant to the declaration of

Section 9. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in Exhibit "A".

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Section 11. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: T11001.

All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

RCS# 4583 3/17/03 7:20 PM

Atlanta City Council

Regular Session

O3-O-O311 Authorize acquisition of Temp. & Perm.

Easements for Vine City Property Owners

RECON AMEND #3

YEAS: 7
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

Y Mitchell N Archibong N Moore E Smith Y Norwood B Martin Y Starnes Y Fauver Y Maddox NV Willis E Shook N Young Y Muller N Boazman NV Woolard Y Winslow

RCS# 4581 3/17/03 7:16 PM

Atlanta City Council

Regular Session

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
AMEND#3/MOORE#2.....

YEAS: 8
NAYS: 3
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

Approved

Ε	Smith	Y	Archibong	Y	Moore	Y	Mitchell
N	Starnes	N	Fauver	В	Martin	Y	Norwood
Y	Young	E	Shook	Y	Maddox	NV	Willis
N	Winslow	Y	Muller	Y	Boazman	NV	Woolard

COUNCIL FLOOR AMENDMENT FORM

	COUNCIL MEMBER: MOORE	DATE: <u>3/17</u>	7 _, 2003
	ORDINANCE I.D. #: <u>03-0-03//</u>		
	PAGE #:	_section:	
	PARAGRAPH:	_LINE:	
mandmen	CAPTIONS': Blue Back Legislation AMENDMENT:		Approved
(oore or	In first sentence of affected property ou	ners to acquire	coll-vote (see ROS#)
3	At the end of Works Sentence d "Only and thereafte by eminent don	elete the words a, as described be	Subsequent to by holl call vote (lack majority (See RCS+ 4583

WHEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 21, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is necessary to waive limited provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

<u>Section 1</u>. The Chief Procurement Officer is hereby authorized to obtain appraisals and to establish estimates of just compensation based on these appraisals to be offered to property owners as reasonable compensation in connection with the said infrastructure improvement Project.

Section 2. The Project described in Exhibit "A" hereto is approved and the Mayor, or her designee or the Chief Procurement Officer, is authorized to negotiate with the affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in Exhibit "A" in accordance with the time requirements described above to acquire property for a period of not less than six (6) months from the adoption of this ordinance on a voluntary basis only and thereafter, as described below, by eminent domain.

delete

Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d), 2-1542 and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in Exhibit "A." The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

Section 4. The City's Program Management Consultants and their sub consultants for real estate acquisition are authorized to settle those acquisitions of property for an amount not to exceed ten percent (10%) above the estimated just compensation. The Chief Procurement Officer is authorized to administratively settle those acquisitions that the City's consultants cannot otherwise acquire for an amount not to exceed twenty percent (20%) above the estimated just compensation of affected properties without further authorization of City Council.

<u>Section 5</u>. If negotiations with affected property owners are successful, the Mayor, or her designee or the Chief Procurement Officer, is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of easements, fee simple and other property interest in connection with the infrastructure improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

RCS# 4580 3/17/03 7:06 PM

Atlanta City Council

Regular Session

FAILED

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
AMEND#2/MOORE#1

YEAS: 7
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

E Smith Y Archibong Y Moore Y Mitchell N Starnes N Fauver B Martin Y Norwood Y Young E Shook Y Maddox NV Willis N Winslow N Muller Y Boazman NV Woolard

Huendment # 2- - 1 (oore...
(page 1)

COUNCIL FLOOR AMENDMENT FORM (See Jack)

PARAGRAPH: ___LINE: Legislation CAPTIONS': Blue Back **AMENDMENT:** Delete in its entirely

03-R-0311 Amendment # 2 - Moore (page 2)

COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: MOORE	DATE: 3/17, 2003
ORDINANCE I.D. #: <u>03-0-03//</u>	
PAGE #:	SECTION: The Whereas Clause
PARAGRAPH:	LINE:
CAPTIONS': Blue Back Legislation	
AMENDMENT:	
Commissioner of the Management deter	on on a non-voluntary

13-R-0311
Amendment #2-Noore
(page 3)
COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: MOORE.	DATE: 3/17, 2003
ORDINANCE I.D. #: <u>()3-0-03//</u> PAGE #:	_RESOLUTION I.D. #:
PAGE #:	SECTION: 9th Whereas
PARAGRAPH:	_LINE:
CAPTIONS': Blue Back Legislation	
AMENDMENT:	
Delete in its entir	rety

Mendment # 2 - Moore for function of Moore function the clarification of Moore function that we went # 2)
i.e. a ficture of page 2 of 03-R-031/as amended
WHEREAS, more than one hundred homes and apartments incurred severe damage as a

result of this unprecedented storm, including inundation by stormwater mixed with raw sewage, thus creating a public health emergency; and

- WHEREAS, the Council has previously authorized the Mayor to undertake and continue emergency relief efforts as set out in Resolution 02-R-1717, a copy of which is attached as Exhibit "B"; and
- WHEREAS, in connection with such efforts the Mayor has directed the Department of Watershed Management to develop an appropriate sewer infrastructure Project to protect against the future exposure of residents and their homes and apartments to raw sewage mixed with stormwater; and
- WHEREAS, the Mayor has directed the Department of Planning and Neighborhood Conservation to develop an appropriate project to revitalize the neighborhood outside the boundaries of the said sewer infrastructure Project and, further, to provide the Vine City community with a conceptual rendering demonstrating urban planning techniques; and
- WHEREAS, the said sewer infrastructure Project is described in Exhibit "A" attached hereto (hereinafter "the Project"); and
- WHEREAS, following construction of the said sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace; and

WHEREAS, the circumstances are such that it is necessary to proceed with acquisition of property for the sewer infrastructure Project described in Exhibit "A" by any method of environt domain authorized by State law, including the declaration of takings as a method of condemnation authorized by O.C.G.A. §§ 22-3-140 and 32-3-4 for Project that involves public sewage collection, treatment or disposal; and

WHEREAS, the City may be eligible for grants administered under the Georgia Emergency Management Act and/or Federal Emergency Management Act provided that property necessary for the Project is acquired on a voluntary basis; accordingly, property for the Project is to be acquired on a voluntary basis for a period of not less than six (6) months and by eminent domain only after the Commissioner of the Department of

Watershed Management determines that the project requires acquisition on a non-voluntary basis; and and by emiliant domain only by authorization by the Council; and

WHEREAS, the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings in accordance with the methods described above to acquire title to easements and fee simple and other related property interests necessary for the construction of the Project described in Exhibit "A"; and

2

RCS# 4579 3/17/03 6:40 PM

Atlanta City Council

Regular Session

FAILED

O3-O-O311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
AMEND#1/YOUNG

YEAS: 7
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 2
ABSENT 1

E Smith Y Archibong Y Moore Y Mitchell N Starnes N Fauver B Martin Y Norwood Y Young E Shook Y Maddox NV Willis N Winslow N Muller Y Boazman NV Woolard

03-K-0311 Amendment # 1 - Young

DOMAIN,

endment # 1 - Young FAILED call by roll role of
endment # / - Young COUNCIL FLOOR AMENDMENT FORM waysury (lack of # 4579 See Res # 4579 COUNCIL MEMBER: VORY LEE YOUNL SP. DATE: 3/17/03, 2003
ORDINANCE I.D. #: 03-0-031 RESOLUTION I.D. #:
PAGE #: 12, 3 AND 4 SECTION: DESCUBER BEACH
PARAGRAPH: heschber below line: beschber Below
CAPTIONS': Blue Back Legislation
AMENDMENT: (IN THE CAPTION) 1.) DELETE THE FOLLOWINE: AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PRICEEDINGS; (SEE PAGE 2)
2) PARACRACH 9, METHODS DESCRIBED IN THE ATLANTA CITY COP 2-1542 TO ALQUING TITLE TO EASEMENT'S AND PEE SIMPLE AND OTHER RELATED
PROPERTY INTEREST NECESSARY FOR THE CONSTRUCTION OF THE PROJECTS DESCRIBED IN EXHIBIT "A", AND
THE RECOVERATION OF CITY OF ATLANTA CODE SECTIONS 2-1541(d) CODE 2 1545/CN OFERWARD FOR THE INFRASHMENTING (TRILLED FOR THIS OF DINANCE ON THE EXHIBIT AT ALL RECONDENSES
TO SULTY OF ATTAJA CODE SECTION 2-19-EZ ARE TO POSTAN IN EFFECT IN THER ENTINETY.
15 THERE AFTER AUTHORIZED TO FOLLOW THE GOS
PROVISIONS FOUND IN ATLANTA CITY CLOS SECTIONS FOUND IN

SECTION 2-1542 IN PERFECTIVE TO FMINEUT DOMAIN.

WHICH WILL REQUIRE CITY CONCULAND THE MAYOR TO

CIVE AUTHORIZATION BY OPDINANCE TO PROCEED WITH EMINENT

COUNCIL FLOOR AMENDMENT FORM

COUNCIL MEMBER: \\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	4 LE YONG JR. DATE: 3/17/03, 2003
ORDINANCE I.D. #: 03	- 7-031 RESOLUTION I.D. #:
PAGE #:	SECTION:
PARAGRAPH:	LINE:
CAPTIONS': Blue Back	Legislation
AMENDMENT: 1, CONTINUED PROMI	PACETTI (THE CAPTION)
TO ACTHORIZE THE C	ity Attorney in Accordance
	42 TO BEGIN CONDEMNATION
	DOANT TO THE DECLAPATION OF
TAKIND METROD A	CTHORIZED BY TITLE 22 OF THE
OFFICIAL CODE OF	CECRCIA ANNOTATED ;
AND FOR CITYES PURI	2 년

AN ORDINANCE BY COUNCILMEMBER IVORY YOUNG AS SUBSTITUTED BY THE FULL COUNCIL

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND RELATED **PROPERTY INTERESTS NECESSARY FOR** INFRASTRUCTURE CONSTRUCTION OF THE SEWER IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED **MAYOR AUTHORIZE** THE AND HERETO: TO PROCUREMENT OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS ACQUIRE NECESSARY FEE SIMPLE TO EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS; TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS: TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED: TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

by 1.)

WHEREAS, on September 21, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

WHEREAS, more than one hundred homes and apartments incurred severe damage as a result of this unprecedented storm, including inundation by stormwater mixed with raw sewage, thus creating a public health emergency; and

WHEREAS, the Council has previously authorized the Mayor to undertake and continue emergency relief efforts as set out in Resolution 02-R-1717, a copy of which is attached as Exhibit "B"; and

WHEREAS, in connection with such efforts the Mayor has directed the Department of Watershed Management to develop an appropriate sewer infrastructure Project to protect against the future exposure of residents and their homes and apartments to raw sewage mixed with stormwater; and

WHEREAS, the Mayor has directed the Department of Planning and Neighborhood Conservation to develop an appropriate project to revitalize the neighborhood outside the boundaries of the said sewer infrastructure Project and, further, to provide the Vine City community with a conceptual rendering demonstrating urban planning techniques; and

WHEREAS, the said sewer infrastructure Project is described in Exhibit "A" attached hereto (hereinafter "the Project"); and

WHEREAS, following construction of the said sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace; and

WHEREAS, the circumstances are such that it is necessary to proceed with acquisition of property for the sewer infrastructure Project described in Exhibit "A" by any method of eminent domain authorized by State law, including the declaration of takings as a method of condemnation authorized by O.C.G.A. §§ 22-3-140 and 32-3-4 for Project that involves public sewage collection, treatment or disposal; and

WHEREAS, the City may be eligible for grants administered under the Georgia Emergency Management Act and/or Federal Emergency Management Act provided that property necessary for the Project is acquired on a voluntary basis; accordingly, property for the Project is to be acquired on a voluntary basis for a period of not less than six (6) months and by eminent domain only after the Commissioner of the Department of Watershed Management determines that the project requires acquisition on a nonvoluntary basis; and

WHEREAS, the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings in accordance with the methods described above to acquire replace with language of 2.) title to easements and fee simple and other related property interests necessary for the

construction of the Project described in Exhibit "A"; and

WHEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 21, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is necessary to waive limited provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

<u>Section 1</u>. The Chief Procurement Officer is hereby authorized to obtain appraisals and to establish estimates of just compensation based on these appraisals to be offered to property owners as reasonable compensation in connection with the said infrastructure improvement Project.

<u>Section 2</u>. The Project described in **Exhibit "A"** hereto is approved and the Mayor, or her designee or the Chief Procurement Officer, is authorized to negotiate with the affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in **Exhibit "A"** in accordance with the time requirements described above to acquire property for a period of not less than six (6) months from the adoption of this ordinance on a voluntary basis only and thereafter, as described below, by eminent domain.

Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d) and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in Exhibit "A." All requirements for City of Atlanta Code Section 2-1542 are to remain in effect in their entirety. The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

Section 4. The City's Program Management Consultants and their sub consultants for real estate acquisition are authorized to settle those acquisitions of property for an amount not to exceed ten percent (10%) above the estimated just compensation. The Chief Procurement Officer is authorized to administratively settle those acquisitions that the City's consultants cannot otherwise acquire for an amount not to exceed twenty percent (20%) above the estimated just compensation of affected properties without further authorization of City Council.

<u>Section 5</u>. If negotiations with affected property owners are successful, the Mayor, or her designee or the Chief Procurement Officer, is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of easements, fee simple and other property interest in connection with the infrastructure

improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

<u>Section 6</u>. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City Counsel a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee, is thereafter authorized to use all means necessary and within her power, up to and including the institution of condemnation proceedings pursuant to the declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in Exhibit "A".

<u>Section 8</u>. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

<u>Section 9</u>. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in **Exhibit "A"**.

<u>Section 10</u>. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

<u>Section 11</u>. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: T11001.

<u>Section 12</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

replace with language of 4.

Regular Session

03-0-0311 Authorize acquisition of Temp. & Perm.
Easements for Vine City Property Owners
SUB FORWARD

YEAS: 10
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 5
EXCUSED: 0
ABSENT 1

Y	Smith	Y	Archibong	Y	Moore	Y	Mitchell
NV	Starnes	NV	Fauver	В	Martin	Y	Norwood
Y	Young	Y	Shook	Y	Maddox	NV	Willis
Y	Winslow	NV	Muller	Y	Boazman	NV	Woolard

AN ORDINANCE BY COUNCILMEMBER IVORY LEE YOUNG AS SUBSTITUTED AND AMENDED BY FULL COUNCIL

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND OTHER **NECESSARY** RELATED **PROPERTY INTERESTS INFRASTRUCTURE** SEWER CONSTRUCTION OF THE IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED MAYOR AND HERETO: TO **AUTHORIZE** THE PROCUREMENT OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY FEE SIMPLE AND EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS; TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER TO INSTITUTE CONDEMNATION PROCEEDINGS DESIGNEE, **PURSUANT** TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, on September 21, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

WHEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 21, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is necessary to waive limited provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

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Section 2. The Project described in Exhibit "A" hereto is approved and the Mayor, or her designee or the Chief Procurement Officer, is authorized to negotiate with all affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in Exhibit "A" in accordance with the time requirements described above to acquire property for a period of not less than six (6) months from the adoption of this ordinance on a voluntary basis.

Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d) and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in Exhibit "A." All requirements for City of Atlanta Code Section 2-1542 are to remain in effect in their entirety. The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

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AN ORDINANCE BY COUNCILMEMBER IVORY YOUNG AS SUBSTITUTED BY FINANCE EXECUTIVE COMMITTEE

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND **INTERESTS NECESSARY PROPERTY** RELATED INFRASTRUCTURE **SEWER** CONSTRUCTION THE **OF** IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED AND **AUTHORIZE** THE MAYOR TO **HERETO:** OFFICER TO NEGOTIATE WITH AFFECTED PROCUREMENT PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT SHALL BE AUTHORIZED TO USE ALL OFFICER **SIMPLE** ACQUIRE NECESSARY FEE TO **NECESSARY** EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS; TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS: TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER CONDEMNATION **PROCEEDINGS** INSTITUTE DESIGNEE, TO THE DECLARATION OF TAKING METHOD TO **PURSUANT** AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

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Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d), 2-1542, and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in Exhibit "A." The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

Section 4. The City's Program Management Consultants and their sub consultants for real estate acquisition are authorized to settle those acquisitions of property for an amount not to exceed ten percent (10%) above the estimated just compensation. The Chief Procurement Officer is authorized to administratively settle those acquisitions that the City's consultants cannot otherwise acquire for an amount not to exceed twenty percent (20%) above the estimated just compensation of affected properties without further authorization of City Council.

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Section 11. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: T11001.

<u>Section 12</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

CONDITION FOR APPROVAL FORM (TO ACCOMPANY LEGISLATION)

COMMIT	TEE: FILMUE/EXECUTIVE	DATE: 3/12/3
ORDINAN	ICE # <u>63-0-63//</u> RESOLUTI	ON #
REQUEST	TED BY: CemenTITE	-
DIRECTE	D TO: COUNTEME IN BER	YOUNG
NATURE O	F CONDITION FOR APPROVAL:	:
An Swell	REMAINENE GUESTIONS PE	KTAFAFAG TO THE
	TION	:
WHEN IS T	HIS INFORMATION DUE, AND	M WHOM?
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PARACTO	ALCO TO A COMPANY	3/1/3 7016
	MEETING , Commettee	
	RESULT IN AN AMENDMENT 1	to the legislation?
	NO (J	
WILL THIS	RESULT IN A SUBSTITUTE TO	THE LEGISLATION?
YES ()	NO (1)	
HAS THE PA		
	FORMATION BEEN RECEIVED?	P TES () NO ()
DATE OF 1	RECEIPT:	

AN ORDINANCE BY COUNCILMEMBER IVORY YOUNG

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND OTHER **PROPERTY INTERESTS NECESSARY** RELATED INFRASTRUCTURE CONSTRUCTION OF THE **SEWER** IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; TO AUTHORIZE THE MAYOR AND CHIEF FINANCIAL OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF FINANCIAL OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY FEE SIMPLE AND EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEDINGS; TO WAIVE PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER FOR CONDEMNATION **AUTHORIZATION** COUNCIL **OF** PROCEEDINGS; TO AUTHORIZE ACQUISITION OF SAID PROPERTY IN ACCORDANCE WITH THE GEORGIA RELOCATION ASSISTANCE AND LAND ACQUISITION POLICY ACT AND FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT AND, AS APPLICABLE, GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") AND FEDERAL EMERGENCY MANAGEMENT ACT GUIDELINES; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO ACQUIRE TITLE TO SAID FEE SIMPLE, AND OTHER RELATED PROPERTY INTERESTS **EASEMENT** INFRASTRUCTURE **NECESSARY** TO COMPLETE THE IMPROVEMENT PROJECT; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, during the weekend of September 20-22, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

WHEREAS, more than one hundred homes and apartments incurred severe damage as a result of this unprecedented storm, including inundation by stormwater mixed with raw sewage, thus creating a public health emergency; and

WHEREAS, the Council has previously authorized the Mayor to undertake and continue emergency relief efforts as set out in Resolution 02-R-1717, a copy of which is attached as Exhibit "B"; and

WHEREAS, in connection with such efforts the Mayor has directed the Department of Watershed Management to develop an appropriate sewer infrastructure Project to protect against the future exposure of residents and their homes and apartments to raw sewage mixed with stormwater; and

WHEREAS, the Mayor has directed the Department of Planning and Neighborhood Conservation to develop an appropriate project to revitalize the neighborhood outside the boundaries of the said sewer infrastructure Project and, further, to provide the Vine City community with a conceptual rendering demonstrating urban planning techniques; and

WHEREAS, the said sewer infrastructure Project is described in Exhibit "A" attached hereto (hereinafter "the Project"); and

WHEREAS, following construction of the said sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace; and

WHEREAS, the circumstances are such that it is necessary to proceed with acquisition of property for the sewer infrastructure Project described in Exhibit "A" by any method of eminent domain authorized by State law, including the declaration of takings as a method of condemnation authorized by O.C.G.A. §§ 22-3-140 and 32-3-4 for Project that involves public sewage collection, treatment or disposal; and

WHEREAS, the City may be eligible for grants administered under the Georgia Emergency Management Act and/or Federal Emergency Management Act provided that property necessary for the Project is acquired on a voluntary basis; accordingly, property for the Project is to be acquired on a voluntary basis for a period of not less than six (6) months and by eminent domain only after the Commissioner of the Department of Watershed Management determines that the schedule for construction requires acquisition on a non-voluntary basis; and

WHEREAS, the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings in accordance with the methods described above to acquire title to easements and fee simple and other related property interests necessary for the construction of the Project described in Exhibit "A"; and

WHEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 20-22, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is also necessary to waive additional provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. The Project described in Exhibit "A" hereto is approved and the Mayor, or her designee or the Purchasing Agent, is authorized to negotiate with the affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in Exhibit "A" in accordance with the time requirements described above to acquire property for a period of not less than six (6) months on a voluntary basis only and thereafter, as described below, by eminent domain.

<u>Section 2</u>. The requirements of City of Atlanta Code Sections 2-1517, 2-1541, 2-1489 (Code 1977, Sections 5-5202, 5-5211 and 5-5215, respectively) are waived for the infrastructure improvement Project described in this ordinance, Exhibit "A." The Purchasing Agent shall be authorized to make purchases of property on behalf of the City without further authorization of City Council.

<u>Section 3</u>. The Purchasing Agent is hereby authorized to obtain appraisals and to establish estimates of just compensation based thereon to be offered property owners in connection with the said infrastructure improvement Project to provide reasonable compensation.

Section 4. The City's outside Consultants for construction of the said Project, and their sub consultants for real estate acquisition, are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation. The outside Consultants and their sub consultants are authorized to offer an amount not to exceed \$250.00 more than the estimated just compensation in cases where the estimated just compensation is less than \$2,500.00. That the Purchasing Agent is authorized to administratively settle, without further authorization of City Council, those acquisitions which exceed these limitations which the City's Consultants cannot otherwise acquire. However, in no event shall the Purchasing Agent's authority to administratively negotiate or settle such acquisitions without Council authorization exceed: (a) 20% above the estimated just compensation of affected properties; or (b) \$500.00 in those cases where the estimated just compensation is less than \$2,500.00, or whichever is greater.

<u>Section 5</u>. If negotiations with affected property owners are successful, the Mayor, or her designee or the Purchasing Agent, is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of easements and other property interest in connection with the infrastructure improvement Project without further authorization from City Council.

<u>Section 6</u>: The City Attorney, or her designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with the Project, with the assistance of the Consultants.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, if the affected property owners reject the options, and negotiations fail with such owners, the Mayor or her designee or the Purchasing Agent, with the assistance of the City Attorney, or her designee, is authorized to use all means necessary and with her power, up to and including condemnation, to acquire the necessary easements and other related property interest, without further authorization from City Council. The provisions of Section 2-1542 (Code 1977, § 5-5212) requiring further authorization for condemnations are hereby waived.

Section 8. A finding is hereby made that circumstances are such that it is necessary to proceed with the declarations of taking as a method of condemnation with respect to Project involving public sewage collection, treatment or disposal, as authorized by O.C.G.A. Section 22-3-140, for the construction and completion of the sewer infrastructure improvement Project described in Exhibit "A" hereto which involves public sewage collection purposes; that the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings pursuant to this declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in Exhibit "A".

<u>Section 9</u>. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

Section 10. Given that the time for accomplishment of the necessary acquisitions for construction of the sewer infrastructure Project is limited, the Mayor, or her designee, and all the appropriate City of Atlanta departments are urged to incorporate flexibility, and to act expeditiously in accomplishing the necessary activities, up to and including contracting with outside firms and organizations, to assist in achieving the overall goals and objectives of the sewer infrastructure Project described in Exhibit "A".

Section 11. The City Attorney, in consultation with the Chief Financial Officer and Commissioner of the Department of Watershed Management, shall determine whether federal or state funds are available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in Exhibit "A" and, if so, the Purchasing Agent shall communicate

offers of equitable and just compensation in accordance with the Georgia Relocation Assistance and Land Acquisition Policy Act and the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Section 12. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

Section 13.	Costs associated	with this	ordinance	shall be	charged	to and	paid	from	the
appropriate Fu	nd, Account and (Center as	follows: _				_·		

<u>Section 14</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

<u>Section 6</u>. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City Counsel a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee, is thereafter authorized to use all means necessary and within her power, up to and including the institution of condemnation proceedings pursuant to the declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in Exhibit "A".

<u>Section 8</u>. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

<u>Section 9</u>. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in **Exhibit "A"**.

<u>Section 10</u>. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

<u>Section 11</u>. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: *Q51102709999*

<u>Section 12</u>. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.

Amendment incorporated by krp/OMC 5/07/03